

REMARKS

The claims have been amended as appropriate for clarity and to obviate the formal rejections. Claims 9-20 have been canceled. New Claims 21-28 have been added.

The specification has been amended as suggested by the Examiner to update the cross reference to related applications.

The amendments find support in the claims and specification as originally filed, and no new matter is believed to be added. Accordingly, entry and favorable consideration of the amendments are kindly requested. Upon entry of the amendments, Claims 1-8 and 21-28 will be pending.

The objection to the disclosure and claim rejection under 35 U.S.C. 112, second paragraph have been obviated by appropriate amendment. The disclosure has been updated to correctly refer to the patented parent case, and the claims particularly point out and distinctly claim that which is regarded as the invention. Withdrawal of the objection and rejection is warranted.

The double patenting rejection over the parent case, U.S. Patent 6,410,337, is obviated by Applicants' submission of the appropriate Terminal Disclaimer. Withdrawal of the double patenting rejection is kindly requested.

The anticipation and obviousness rejections over U.S. Patent 4,788,139 to Ryan (hereinafter "Ryan") set out at paragraphs 6-10 of the Official Action are unsustainable. Claims 9-20 have been cancelled, and the anticipation rejection over these claims should be withdrawn accordingly.

The present invention is similarly not obvious over Ryan. The Office's rejection is unsustainable, and it should be withdrawn. Ryan does not disclose or suggest using the difference between a baseline platelet count in a first sample and a count of unactivated platelets

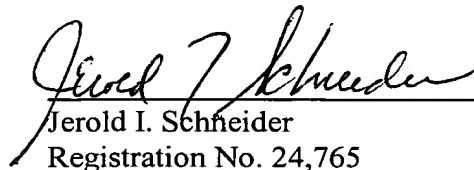
from a second sample to measure platelet function. The mere fact that Ryan discloses testing the aggregation of platelets in respective tubes having citrated- and EDTA-anticoagulated blood in the same example is of no consequence.

Ryan discloses two sample tubes containing whole blood in his Example 1. In addition to whole blood, one tube contains EDTA and the other contains a citrate solution. Collagen is then added to both tubes, and the platelet count is determined in each sample at various times. The citrated blood shows 100% aggregation within a few minutes, but the EDTA-containing blood exhibits zero % aggregation. The present invention is not made obvious by this disclosure. Ryan does not relate the platelet counts of the two sample tubes in any way, nor for any purpose. The fact that these two samples are presented in the same example and in the same table has no bearing on the present invention. In contrast to the present invention, Ryan does not suggest a method in which the difference between the baseline platelet count of a first sample and a count of unactivated platelets remaining after activation in a second sample can be utilized as a measure of activity of the platelets in a physiological source. The obviousness rejection is unsustainable, and its withdrawal is kindly requested.

This application is now believed to be in condition for allowance and an early and favorable indication of same is kindly requested. Should the Examiner have any questions regarding this paper or wish to further discuss this case, she is kindly invited to contact Applicants' undersigned representative at the telephone number below.

Respectfully submitted,

PIPER RUDNICK LLP

A handwritten signature in cursive script, reading "Jerold I. Schneider", is written over a horizontal line.

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